

HOUSE BILL 309
By Coleman

AN ACT to enact the "Business Premises Safety Act"
relative to the safety of property and duty of
owners, operators or managers of property, and to
amend Tennessee Code Annotated, Title 28 and
Title 66

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Business Premises Safety Act of 2005".

SECTION 2. As used in this act unless the context otherwise requires:

(1) "Business" means any commercial or agricultural enterprise, including, but not limited to, sales, services, manufacturing, lodging, food service, property management or leasing company, or any other entity, whether for profit or not for profit, which owns, operates, or leases property, to which persons are invited or permitted to visit; and

(2) "Criminal act" means any activity, action or inaction that might result in liability, or is a crime, whether felony or misdemeanor, under the criminal statutes of the state of Tennessee or of the United States.

SECTION 3.

(a) There is no duty upon the owners or operators of a business, individually or collectively, or upon merchants or shopkeepers, whose mode of operation of their premises does not attract or provide a climate for crime, to guard against the criminal acts of a third party, unless:

(1) they know or have reason to know that acts are occurring or are about to occur on the premises that pose imminent probability of harm to a person; or

(2) similar criminal acts have occurred on the premises that would provide actual notice that there is substantial foreseeability that such action will occur again;

in which case a duty of reasonable care to protect against such acts shall rise.

A business shall not be regarded as the insurer of the safety of its customers, and has no absolute duty to implement security measures for the protection of its customers. Any measures implemented shall be determined by considering both the magnitude of the burden to the business in implementing security measures and the foreseeability of the harm to be prevented.

(b) A court shall apply the principles of comparative fault when establishing the liability of a business in a civil action regarding liability for dangers resulting from the acts of third parties. A business' liability shall be reduced in proportion to the percentage of negligence attributable to the plaintiff or the third party criminal actor.

(c) In the case of past criminal activities, remedial action to provide protection to customers shall not be admissible in evidence to show prior negligence or breach of a duty of a business in any action against the business for damages.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring

it.